

It is noted that the corrected or substitute drawings received by the Examiner on August 7, 2002 are acceptable.

Claims 120, 121 and 123-136 are rejected under 35 U.S.C. Section 102(b) as being anticipated by Purdom (US 5,750,925). According to the Examiner, regarding claim 120:

"Purdom '925 discloses a boiler in Fig.1B, comprising:

a containment compartment 106 for containing a thermal mass 108;
a protective compartment 107 within which a memory module 109 is located; and
means for interconnecting the compartments 135".

The Examiner previously took the position that:

"...the limitation [in the wherein clause] of protecting the memory module from temperatures on the order of 260 degrees C for ten hours is an intended use or result of the claimed structure, and does not further limit the subject matter of the claim, therefore it has not been considered."

In response to this rejection, the Applicant amended the claim to provide additional structure, i.e. means ("means for protecting") for obtaining the result which was previously recited in a wherein clause. The Applicant gave specific examples of the structure disclosed in the specification which cooperate to perform the function of protecting said memory module from temperatures on the order of 260 degrees C for approximately ten hours. The Applicant also explained why the prior art is incapable of performing this function even though it may share some structural similarity to the claimed invention.

The Applicant further explained that:

"[a]s the claim was originally written, the function of protecting the memory at the stated temperature for the stated duration was linked to the "means for interconnecting". Although the means for interconnecting play a role in this function, other means described in the specification also participate in this function."

It was further explained that the Applicant chose to claim this structure in means plus function terms because some sub-combinations of the disclosed structure may be able to achieve substantially the same function. In any event, claim 120 as previously amended now includes both "means for

interconnecting" and "means for protecting", two separate claim elements.

In finally rejecting claim 120, the Examiner has taken the position that the claimed "means for protecting" is the "means for interconnecting". On its face, this analysis is clearly improper because it treats two claim elements as being one and the same. The Examiner's analysis and conclusions are further flawed in view of the facts set forth by Applicant (in the Remarks accompanying the response to the First Action) which explained all of the various structure other than the "means for interconnecting" which cooperate to provide "means for protecting".

In response to the Applicant's previous arguments, the Examiner stated that:

"structural difference between [the prior art and the invention] must be present in the claim to show patentability".

It is believed that the Applicant demonstrated that the structural difference was the "means for protecting said memory module from temperatures on the order of 260 degrees C for approximately ten hours", which was added to the claim as clause (d) and distinguished from the structure of clause (c), the "means for interconnecting".

The Examiner's final rejection has not addressed the structural difference in clause (d) of claim 120 and is therefore improper.

The Examiner's response to Applicant's previous arguments also takes the position that the "means for protecting said memory module from temperatures on the order of 260 degrees C for approximately ten hours" is "an intended use or result of the claimed structure". The Applicant asks which claimed structure? It seems that the Examiner is interpreting clauses (a)-(c) as providing the function claimed in clause (d) even though clause (d) specifically states that additional means are required to perform this function.

The Examiner further responds to the Applicant's previous arguments by suggesting that the "passageway" in the prior art is equivalent to the "means for protecting", even though the Applicant explicitly explained many reasons, in the response to the First Action, why it is not equivalent.

In support of his argument, the Examiner states that since the prior art and the invention perform similar functions, they can be considered equivalent. A super computer and an abacus perform similar functions, increasing

the speed at which calculations can be performed, but they are hardly equivalents.

But of even greater import in the case at hand is the Examiner's failure to address the aforementioned structural difference between claimed elements; and the Examiner's failure to find any support in the art to render the claims, as amended, anticipated or obvious in view of the cited art.

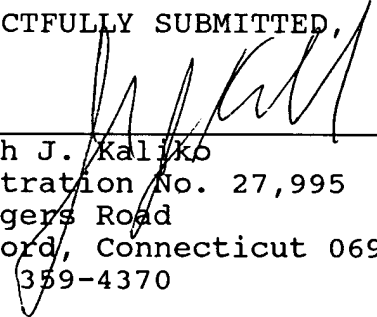
The totality of the art cited in the instant case was certainly known to the inventor at the time of the instant invention. He is in fact the same inventor who was faced with solving a very different and complex problem; namely, protecting a memory module from temperatures on the order of 260 degrees C for approximately ten hours; a problem not addressed, let alone solved by this inventor's prior inventions.

Further, in addition the Examiner has failed to find any other teachings in the art that anticipate or render the claimed invention obvious. Again, the inventor has addresses a very different problem from the problems solved by his prior inventions. These facts were discussed in detail in the Remarks accompanying the response to the First Action in the present case, and in fact demonstrate that the art cited by the Examiner teaches away from the

instant claimed invention (see in particular, pages 9-12 of the Remarks accompanying the response to the First Action).

For all of the above reasons, the Applicant respectfully requests reconsideration of claims 120-136 now pending; and solicits the allowance of these claims at an early date.

RESPECTFULLY SUBMITTED,



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